

Senate File 2277 - Introduced

SENATE FILE _____
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 3213)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to offenses against identity by establishing a
2 procedure to secure credit information and providing a
3 penalty.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 6012SV 82
6 rn/rj/14

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1 1 Section 1. NEW SECTION. 714F.1 DEFINITIONS.
1 2 For the purposes of this chapter, unless the context
1 3 otherwise requires:
1 4 1. "Consumer" means an individual who is a resident of
1 5 this state.
1 6 2. "Consumer report" means the same as defined in 15
1 7 U.S.C. } 1681a(d).
1 8 3. "Consumer reporting agency" means the same as defined
1 9 in 15 U.S.C. } 1681a(f).
1 10 4. "Identification information" means as defined in
1 11 section 715A.8.
1 12 5. "Identity theft" means as used in section 715A.8.
1 13 6. "Proper identification" means the same as defined in 15
1 14 U.S.C. } 1681h(a)(1).
1 15 7. "Security freeze" means a notice placed in a consumer's
1 16 report, at the request of the consumer and subject to certain
1 17 exceptions, that prohibits a consumer reporting agency from
1 18 releasing the consumer's report or score relating to the
1 19 extension of credit.
1 20 Sec. 2. NEW SECTION. 714F.2 SECURITY FREEZE.
1 21 A consumer may submit by certified mail to a consumer
1 22 reporting agency a written request for a security freeze. The
1 23 consumer must submit proper identification and the applicable
1 24 fee with the request. Within five business days after
1 25 receiving the request, the consumer reporting agency shall
1 26 commence the security freeze. Within ten business days after
1 27 commencing the security freeze, the consumer reporting agency
1 28 shall send a written confirmation to the consumer of the
1 29 security freeze, a personal identification number or password,
1 30 other than the consumer's social security number, for the
1 31 consumer to use in authorizing the suspension or removal of
1 32 the security freeze, including information on how the security
1 33 freeze may be temporarily suspended.
1 34 Sec. 3. NEW SECTION. 714F.3 TEMPORARY SUSPENSION.
1 35 A consumer may request that a security freeze be
2 1 temporarily suspended to allow the consumer reporting agency
2 2 to release the consumer report for a specific time period.
2 3 The consumer reporting agency may develop procedures to
2 4 expedite the receipt and processing of requests which may
2 5 involve the use of telephones, facsimile transmissions, the
2 6 internet, or other electronic media. The consumer reporting
2 7 agency shall comply with the request within three business
2 8 days after receiving the request. The consumer's request
2 9 shall include all of the following:
2 10 1. Proper identification.
2 11 2. The personal identification number or password provided
2 12 by the consumer reporting agency.
2 13 3. Explicit instructions of the specific time period
2 14 designated for suspension of the security freeze.
2 15 4. Payment of the applicable fee.
2 16 Sec. 4. NEW SECTION. 714F.4 REMOVAL.
2 17 A security freeze remains in effect until the consumer

2 18 requests that the security freeze be removed. A consumer
2 19 reporting agency shall remove a security freeze within three
2 20 business days after receiving a request for removal that
2 21 includes proper identification of the consumer, the personal
2 22 identification number or password provided by the consumer
2 23 reporting agency, and payment of the applicable fee.

2 24 Sec. 5. NEW SECTION. 714F.5 FEES.

2 25 1. A consumer reporting agency shall not charge any fee to
2 26 a consumer who is the victim of identity theft for commencing
2 27 a security freeze, temporary suspension, or removal if with
2 28 the initial security freeze request, the consumer submits a
2 29 valid copy of the police report concerning the unlawful use of
2 30 identification information by another person.

2 31 2. A consumer reporting agency may charge a fee not to
2 32 exceed ten dollars to a consumer who is not the victim of
2 33 identity theft for each security freeze, removal, or for
2 34 reissuing a personal identification number or password if the
2 35 consumer fails to retain the original number. The consumer
3 1 reporting agency may charge a fee not to exceed twelve dollars
3 2 for each temporary suspension of a security freeze.

3 3 Sec. 6. NEW SECTION. 714F.6 THIRD PARTIES.

3 4 If a third party requests a consumer report that is subject
3 5 to a security freeze, the consumer reporting agency may advise
3 6 the third party that a security freeze is in effect. If the
3 7 consumer does not expressly authorize the third party to have
3 8 access to the consumer report through a temporary suspension
3 9 of the security freeze, the third party shall not be given
3 10 access to the consumer report but may treat a credit
3 11 application as incomplete.

3 12 Sec. 7. NEW SECTION. 714F.7 MISREPRESENTATION OF FACT.

3 13 A consumer reporting agency may suspend or remove a
3 14 security freeze upon a material misrepresentation of fact by
3 15 the consumer. However, the consumer reporting agency shall
3 16 send notice to the consumer in writing prior to suspending or
3 17 removing the security freeze.

3 18 Sec. 8. NEW SECTION. 714F.8 EXCEPTIONS.

3 19 A security freeze shall not apply to the following persons
3 20 or entities:

3 21 1. A person or person's subsidiary, affiliate, agent, or
3 22 assignee with which the consumer has or prior to assignment
3 23 had an account, contract, or debtor-creditor relationship for
3 24 the purposes of reviewing the account or collecting the
3 25 financial obligation owing for the account, contract, or debt,
3 26 or extending credit to a consumer with a prior or existing
3 27 account, contract, or debtor-creditor relationship.
3 28 "Reviewing the account" includes activities related to account
3 29 maintenance, monitoring, credit line increases, and account
3 30 upgrades and enhancements.

3 31 2. A subsidiary, affiliate, agent, assignee, or
3 32 prospective assignee of a person to whom access has been
3 33 granted under a temporary suspension for purposes of
3 34 facilitating the extension of credit or another permissible
3 35 use.

4 1 3. A person acting pursuant to a court order, warrant, or
4 2 subpoena.

4 3 4. Child support enforcement officials when investigating
4 4 a child support case pursuant to Title IV-D or Title XIX of
4 5 the federal Social Security Act.

4 6 5. The department of human services or its agents or
4 7 assignees acting to investigate fraud under the medical
4 8 assistance program.

4 9 6. The department of revenue or local taxing authorities;
4 10 or any of their agents or assignees, acting to investigate or
4 11 collect delinquent taxes or assessments, including interest
4 12 and penalties and unpaid court orders, or to fulfill any of
4 13 their other statutory or other responsibilities.

4 14 7. A person's use of credit information for prescreening
4 15 as provided by the federal Fair Credit Reporting Act.

4 16 8. A person for the sole purpose of providing a credit
4 17 file monitoring subscription service to which the consumer has
4 18 subscribed.

4 19 9. A consumer reporting agency for the sole purpose of
4 20 providing a consumer with a copy of the consumer's consumer
4 21 report upon the consumer's request.

4 22 10. A person's use of a consumer report in connection with
4 23 the business of insurance.

4 24 Sec. 9. NEW SECTION. 714F.9 WRITTEN CONFIRMATION.

4 25 After a security freeze is in effect, a consumer reporting
4 26 agency may post a name, date of birth, social security number,
4 27 or address change in a consumer report provided written
4 28 confirmation is sent to the consumer within thirty days of

4 29 posting the change. For an address change, written
4 30 confirmation shall be sent to both the new and former
4 31 addresses. Written confirmation is not required to correct
4 32 spelling and typographical errors.

4 33 Sec. 10. NEW SECTION. 714F.10 WAIVER VOID.

4 34 A waiver by a consumer of the provisions of this chapter is
4 35 contrary to public policy, and is void and unenforceable.

5 1 Sec. 11. NEW SECTION. 714F.11 ENFORCEMENT.

5 2 A person who violates this chapter violates section 714.16,
5 3 subsection 2, paragraph "a". All powers conferred upon the
5 4 attorney general to accomplish the objectives and carry out
5 5 the duties prescribed in section 714.16 are also conferred
5 6 upon the attorney general to enforce this chapter, including
5 7 but not limited to the power to issue subpoenas, adopt rules,
5 8 and seek injunctive relief and a monetary award for civil
5 9 penalties, attorney fees, and costs. Additionally, the
5 10 attorney general may seek and recover the greater of five
5 11 hundred dollars or actual damages for each customer injured by
5 12 a violation of this chapter.

5 13 EXPLANATION

5 14 This bill concerns the protection of a person's identity.

5 15 The bill creates new Code chapter 714F that allows an
5 16 individual, the consumer, to place a hold on the individual's
5 17 consumer report to prevent a consumer reporting agency from
5 18 releasing any information relating to the individual's
5 19 creditworthiness without first obtaining the individual's
5 20 express authorization. This "security freeze" may be
5 21 temporarily suspended to allow a consumer reporting agency to
5 22 release a consumer report for a specific time period. A
5 23 security freeze remains in effect until the individual
5 24 requests its removal.

5 25 The bill provides that a consumer reporting agency cannot
5 26 charge any fees to an individual who is the victim of identify
5 27 theft. Other individuals pay a fee up to \$10 per security
5 28 freeze, removal, or for reissuing a necessary password if the
5 29 individual fails to retain it, and up to \$12 per temporary
5 30 suspension request.

5 31 The bill addresses third parties that seek a consumer
5 32 report, misrepresentation of a material fact by an individual,
5 33 and lists exceptions to the security freeze, including a
5 34 person with a prior debtor-creditor relationship.

5 35 The bill provides that a waiver of the protection offered
6 1 by the security freeze provision is void and unenforceable.

6 2 The bill contains enforcement provisions. A violation is
6 3 an offense under Code section 714.16 and is subject to
6 4 enforcement, including injunctive relief and money damages, by
6 5 the attorney general.

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